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14 & Trust Company, formerly known as and successor
15 to Borel Private Bank & Trust Company

16 UNITED STATES BANKRUPTCY COURT
17
18 NORTHERN DISTRICT OF CALIFORNIA
19
20 SAN JOSE DIVISION

21 In re:

22 272 E. Santa Clara Grocery, LLC,
23 Debtor.

CASE NO. 13-53491
RS No. SJK-1
CHAPTER 11

**NOTICE OF MOTION AND NOTICE OF
HEARING RE BOSTON PRIVATE BANK
& TRUST COMPANY'S MOTION FOR
RELIEF FROM STAY**

Date: November 19, 2013
Time: 10:00 a.m.
Place: 280 S. First Street
San Jose, CA
Courtroom 3099
Judge: Hon. Stephen L. Johnson

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1 **TO THE COURT, THE DEBTOR AND ALL PARTIES IN INTEREST:**

2 PLEASE TAKE NOTICE that on November 19, 2013 at 10:00 a.m., or as soon thereafter
3 as counsel may be heard, before the Honorable Stephen L. Johnson, United States Bankruptcy
4 Judge, in his courtroom located at the United States Bankruptcy Court, 280 S. First St.,
5 Courtroom 3099, San Jose, California 95113, Boston Private Bank & Trust Company, ("BPB"), a
6 secured creditor herein, will, and hereby does, move the court for an order granting BPB relief
7 from the automatic stay. BPB moves the Court pursuant to 11 U.S.C. §362(d), subsections (1)
8 and (3), for an order for relief from the automatic stay of section 362 to permit BPB to foreclose
9 or otherwise enforce its rights and remedies under its deed of trust, assignment of rents and
10 applicable law with respect to the real property at 272 E. Santa Clara Street, San Jose. BPB seeks
11 relief with respect to Debtor In Possession 272 E. Santa Clara Grocery, LLC ("Debtor").
12 Grounds for relief exist under either subsection (d)(1) or subsection (d)(3), and relief should
13 therefore be granted.

14 Consequently, BPB hereby requests that immediate relief from the automatic stay be
15 granted pursuant to 11 U.S.C. §362(d)(1) and (2), so that it may exercise its rights and remedies
16 under its loan documents and state law, including foreclosing on its security interest. BPB's
17 Motion for Relief from the Automatic Stay is made pursuant to Rule 4001 of the Federal Rules of
18 Bankruptcy Procedure and Local Rule 4001-1.

19 PLEASE TAKE FURTHER NOTICE that BPB shall also seek an order waiving the 10-
20 day stay of any order granting the Motion provided under Rule 4001(a)(3) of the Federal Rules of
21 Bankruptcy Procedure.

22 PLEASE TAKE FURTHER NOTICE that, pursuant to Local Bankruptcy Rule 4001-1,
23 the Debtor is advised to appear personally or by counsel at the preliminary hearing on the Motion.

24 BPB's request for relief from stay is based upon this notice of motion, the supporting
25 memorandum of points and authorities filed concurrently herewith, the declaration David

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1 Scheiber filed in support of this motion, the relief from stay cover sheet, and any and all papers
2 and pleadings on file in this case including, without limitation the Debtor's Chapter 11 voluntary
3 petition, its schedules and the proposed disclosure statement and plan filed in this case.

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5 Dated: October 23, 2013

HOPKINS & CARLEY
A Law Corporation

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7 By: //s// Stephen J. Kottmeier

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Private Bank & Trust Company, formerly
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